

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0063-MSW-E TCEQ ID: RN102214806 CASE NO.: 31841
RESPONDENT NAME: JTB Recycling Facility, Inc.

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: JTB Recycling Transfer Station Facility, 4895 Romeda Road, Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Recycling and septage transfer station</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 9, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Marlin Bullard, Enforcement Division, Enforcement Team 7, R-09, (254) 761-3038; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Ms. Candace Broucher, Owner, JTB Recycling Facility, Inc., 4895 Romeda Road, Beaumont, Texas 77705 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review Date(s) of Complaints Relating to this Case: None Date of Investigation Relating to this Case: August 29, 2006 Date of NOE Relating to this Case: November 10, 2006 (NOE) Background Facts: This was a routine investigation. Four violations were documented. WASTE 1) Failure to amend the site operating plan ("SOP") prior to deviating from the operational requirements of the SOP. Specifically, the Respondent added additional storage tanks and began manually adding enzymes to the waste treatment process, but did not amend the SOP for Registration No. 43000 to include the new process and equipment prior to construction and implementation [30 TEX. ADMIN. CODE §§ 330.73(a) and 330.121 [formerly 330.111] and MSW Registration No. 43000, Sections Drying Bed Procedures and Processing Grease Trap Waste]. 2) Failure to maintain accurate records documenting the annual waste acceptance rate for the Facility. Specifically, grease and wastewater from tank bottom cleaning was not included in the incoming waste load calculations [30 TEX. ADMIN. CODE § 330.125(h)]. 3) Failure to provide financial assurance. Specifically, the Type V municipal solid waste transfer Facility did not have financial assurance to cover its operations under Registration No. 40164 [30 TEX. ADMIN. CODE § 37.8021]. 4) Failure to annually sample and analyze grit trap waste received. Specifically, the	Total Assessed: \$3,255 Total Deferred: \$651 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay SEP Conditional Offset: \$0 Total Paid to General Revenue: \$2,604 Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Applicable Penalty Policy: September 2002	Corrective Actions Taken: 1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. Began collecting and analyzing samples of grit trap waste on September 1, 2006; and b. Obtained acceptable financial assurance to cover operations under Registration No. 40164 on February 15, 2007. Ordering Provisions: 2) The Order shall require the Respondent to: a. Immediately upon the effective date of this Agreed Order, begin maintaining accurate records documenting the annual waste acceptance rate for the Facility; b. Within 15 days after the effective date of this Agreed Order, amend the Facility's SOP and registration to reflect current equipment and operating processes or bring the Facility into compliance with its current registration; and c. Within 30 days the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.

Respondent did not sample and analyze grit trap waste for benzene, lead, and total petroleum hydrocarbons in 2005 [30 TEX. ADMIN. CODE § 330.203(c)(2)].		
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ
DATES

Assigned 13-Nov-2006

PCW 18-Apr-2007

Screening 30-Nov-2006

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent JTB Recycling Facility, Inc.

Reg. Ent. Ref. No. RN102214806

Facility/Site Region 10-Beaumont

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 31841

Docket No. 2007-0063-MSW-E

Media Program(s) Municipal Solid Waste

Multi-Media

No. of Violations 4

Order Type 1660

Enf. Coordinator Marlin Bullard

EC's Team Enforcement Team 8

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$3,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 5% Enhancement

Subtotals 2, 3, & 7 \$155

Notes

Enhancement for one NOV with same or similar violations at this site within the past five years.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$3,903

Approx. Cost of Compliance \$3,300

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$3,255

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$3,255

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$3,255

DEFERRAL

20%

Reduction

Adjustment -\$651

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,604

Screening Date 30-Nov-2006

Docket No. 2007-0063-MSW-E

PCW

Respondent JTB Recycling Facility, Inc.

Policy Revision 2 (September 2002)

Case ID No. 31841

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102214806

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same or similar violations at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 30-Nov-2006

Docket No. 2007-0063-MSW-E

PCW

Respondent JTB Recycling Facility, Inc.

Policy Revision 2 (September 2002)

Case ID No. 31841

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102214806

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 330.73(a) and 330.121 [formerly 330.111] and MSW
Registration No. 43000, Sections Drying Bed Procedures and Processing Grease Trap
Waste

Violation Description

Failed to amend the site operating plan ("SOP") prior to deviating from the operational requirements of the SOP, as documented during an investigation conducted on August 29, 2006. Specifically, the Respondent added additional storage tanks and began manually adding enzymes to the waste treatment process, but did not amend the SOP for Registration No. 43000 to include the new process and equipment prior to construction and implementation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix
Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

93 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent: JTB Recycling Facility, Inc.
Case ID No. 31841
Reg. Ent. Reference No. RN102214806
Media: Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$500	29-Aug-2006	30-Nov-2007	1.3	\$31	n/a	\$31
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the SOP for Registration No. 43000 to accurately reflect the Facility's equipment and operations. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$31

Screening Date 30-Nov-2006

Docket No. 2007-0063-MSW-E

PCW

Respondent JTB Recycling Facility, Inc.

Policy Revision 2 (September 2002)

Case ID No. 31841

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102214806

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 330.125(h)

Violation Description

Failed to maintain accurate records documenting the annual waste acceptance rate for the Facility, as documented during an investigation conducted on August 29, 2006. Specifically, grease and wastewater from tank bottom cleaning is not included in the incoming waste load calculations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

93 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$991

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

Economic Benefit Worksheet

Respondent JTB Recycling Facility, Inc.
Case ID No. 31841
Reg. Ent. Reference No. RN102214806
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	10-Mar-1998	15-Aug-2007	9.4	\$47	\$944	\$991
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to maintain accurate records. The Date Required is the date the Facility was required to include grease and wastewater from tank bottom cleaning in the incoming waste load calculations. The Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$100

TOTAL

\$991

Screening Date 30-Nov-2006

Docket No. 2007-0063-MSW-E

PCW

Respondent JTB Recycling Facility, Inc.

Policy Revision 2 (September 2002)

Case ID No. 31841

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102214806

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 37.8021

Violation Description

Failed to provide financial assurance, as documented during an investigation conducted on August 29, 2006. Specifically, the Type V municipal solid waste transfer Facility did not have financial assurance to cover its operations under Registration No. 40164.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$1,000

One annual event is recommended for the 12 month period preceding the August 29, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,785

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent JTB Recycling Facility, Inc.
Case ID No. 31841
Reg. Ent. Reference No. RN102214806
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,700	28-Aug-2005	28-Aug-2006	1.0	\$85	\$1,700	\$1,785
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated annual cost to provide financial assurance for the Facility for the 12 month period preceding the August 29, 2006 investigation.

Approx. Cost of Compliance

\$1,700

TOTAL

\$1,785

Screening Date 30-Nov-2006

Docket No. 2007-0063-MSW-E

PCW

Respondent JTJB Recycling Facility, Inc.

Policy Revision 2 (September 2002)

Case ID No. 31841

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102214806

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 330.203(c)(2)

Violation Description

Failed to annually sample and analyze grit trap waste received, as documented during an investigation conducted on August 29, 2006. Specifically, the Respondent did not sample and analyze grit trap waste for benzene, lead, and total petroleum hydrocarbons in 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

One annual event is recommended for 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,096

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent JTB Recycling Facility, Inc.

Case ID No. 31841

Reg. Ent. Reference No. RN102214806

Media Municipal Solid Waste

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	31-Dec-2005	31-Dec-2006	1.9	\$96	\$1,000	\$1,096
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to collect and analyze waste samples during calendar year 2005.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,096

Compliance History

Customer/Respondent/Owner-Operator:	CN600711048	JTB Recycling Facility, Inc.	Classification: AVERAGE	Rating: 4.50
Regulated Entity:	RN102214806	JTB RECYCLING TRANSFER STATION FACILITY	Classification: AVERAGE	Site Rating: 4.50
ID Number(s):	MUNICIPAL SOLID WASTE PROCESSING		REGISTRATION	40164
	MUNICIPAL SOLID WASTE PROCESSING		REGISTRATION	43000
Location:	4895 ROMEDA RD, BEAUMONT, TX, 77705		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	January 10, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 10, 2002 to January 10, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Marlin Bullard	Phone:	(254) 761-3038	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 11/15/2004 | (336397) |
| 2 | 11/10/2006 | (515140) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 04/19/2004 | (263898) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 327 327.4(c) | | |
| Description: | Failure to provide noncompliance notification. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 327 327.5[G] | | |
| Description: | Failure to properly abate spills. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 330, SubChapter F 330.111 | | |
| | 30 TAC Chapter 330, SubChapter G 330.150(1) | | |
| Description: | Failure to comply with the site operating plan. | | |
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JTB RECYLING FACILITY, INC.
RN102214806**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0063-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding JTB Recycling Facility, Inc. ("JTB") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and JTB appear before the Commission and together stipulate that:

1. JTB owns and operates a recycling and septage transfer station at 4895 Romeda Road in Beaumont, Jefferson County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and JTB agree that the Commission has jurisdiction to enter this Agreed Order, and that JTB is subject to the Commission's jurisdiction.
4. JTB received notice of the violations alleged in Section II ("Allegations") on or about November 15, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by JTB of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Two Hundred Fifty-Five Dollars (\$3,255) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). JTB has paid Two Thousand Six Hundred Four Dollars (\$2,604) of the administrative penalty and Six Hundred Fifty-One Dollars (\$651) is deferred contingent upon

JTB's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If JTB fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require JTB to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and JTB have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that JTB has implemented the following corrective measures at the Facility:
 - a. Began collecting and analyzing samples of grit trap waste on September 1, 2006; and
 - b. Obtained acceptable financial assurance to cover operations under Registration No. 40164 on February 15, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that JTB has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, JTB is alleged to have:

1. Failed to amend the site operating plan ("SOP") prior to deviating from the operational requirements of the SOP, in violation of 30 TEX. ADMIN. CODE §§ 330.73(a) and 330.121 [formerly 330.111] and MSW Registration No. 43000, Sections Drying Bed Procedures and Processing Grease Trap Waste, as documented during an investigation conducted on August 29, 2006. Specifically, JTB added additional storage tanks and began manually adding enzymes to the waste treatment process, but did not amend the SOP for Registration No. 43000 to include the new process and equipment prior to construction and implementation.
2. Failed to maintain accurate records documenting the annual waste acceptance rate for the Facility, in violation of 30 TEX. ADMIN. CODE § 330.125(h), as documented during an investigation conducted on August 29, 2006. Specifically, grease and wastewater from tank bottom cleaning was not included in the incoming waste load calculations.

3. Failed to provide financial assurance, in violation of 30 TEX. ADMIN. CODE § 37.8021, as documented during an investigation conducted on August 29, 2006. Specifically, the Type V municipal solid waste transfer Facility did not have financial assurance to cover its operations under Registration No. 40164.
4. Failed to annually sample and analyze grit trap waste received, in violation of 30 TEX. ADMIN. CODE § 330.203(c)(2), as documented during an investigation conducted on August 29, 2006. Specifically, JTB did not sample and analyze grit trap waste for benzene, lead, and total petroleum hydrocarbons in 2005.

III. DENIALS

JTB generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that JTB pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and JTB's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: JTB Recycling Facility, Inc., Docket No. 2007-0063-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that JTB shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, begin maintaining accurate records documenting the annual waste acceptance rate for the Facility, in accordance with 30 TEX. ADMIN. CODE § 330.125(h);
 - b. Within 15 days after the effective date of this Agreed Order, amend the Facility's SOP and registration to reflect current equipment and operating processes or bring the Facility into compliance with its current registration, in accordance with 30 TEX. ADMIN. CODE §§ 330.73(a) and 330.121 and MSW Registration No. 43000; and
 - c. Within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that

qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon JTB. JTB is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If JTB fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, JTB's failure to comply is not a violation of this Agreed Order. JTB shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. JTB shall notify the Executive Director within seven days after JTB becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by JTB shall be made in writing to the Executive Director. Extensions are not effective until JTB receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against JTB in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to JTB, or three days after the date on which the Commission mails notice of the Order to JTB, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

8/16/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Candace I. Broucher
Signature

May 4, 2007
Date

Candace I. Broucher
Name (Printed or typed)
Authorized Representative of
JTB Recycling Facility, Inc.

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

